

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CLARENCE L. HEARNS,  
  
Plaintiff,  
  
v.  
  
ANDREW WHISNAND, et al.,  
  
Defendants.

Case No. 1:20-cv-00313-JLT-BAK-SAB (PC)

ORDER OVERULING PLAINTIFF'S  
OBJECTIONS TO FINDINGS AND  
RECOMMENDATIONS

(ECF No. 25)

Plaintiff Clarence L. Hearn, a prisoner proceeding *pro se* and *in forma pauperis*, filed this civil rights action under 42 U.S.C. § 1983. Plaintiff's first amended complaint alleged that the defendants interfered with his mail and denied him access to the court in violation of the First Amendment. (ECF No. 13.)

On December 28, 2021, the assigned magistrate judge issued findings and recommendations recommending the dismissal of the action for failure to state a claim. (ECF No. 20.) The findings and recommendations advised: "Within 14 days after being served with these Findings and Recommendations, the parties may file written objections with the Court. . . . The parties are advised that failure to file objections within the specified time may result in the waiver of rights on appeal." (*Id.* (citation omitted).) The findings and recommendations were served by mail on the same day. Therefore, any objections were due on January 14, 2022, including an extra three days for mailing. See Fed. R. Civ. P. 6(d).

1 On January 6, 2022, the Court issued a notice that, due to the appointment of Judge  
2 Jennifer L. Thurston to district judge, the case was temporarily assigned to Magistrate Judge  
3 Stanley A. Boone until a new Bakersfield magistrate judge is appointed. (ECF No. 21.)

4 On January 10, 2022, the Court reassigned the case from the Unassigned District Judge to  
5 District Judge Jennifer L. Thurston for all proceedings. (ECF No. 22.) The same day, District  
6 Judge Thurston entered an order withdrawing the findings and recommendations and dismissing  
7 the action. (ECF No. 23.) Judgment was entered the same day. (ECF. No. 24.)

8 On January 18, 2022, Plaintiff belatedly filed the objections to the findings and  
9 recommendations. (ECF No. 25.) Because the findings and recommendations were withdrawn,  
10 the objections are moot and OVERRULED for this reason.

11 IT IS SO ORDERED.

12  
13 Dated: January 24, 2022

  
UNITED STATES MAGISTRATE JUDGE